527.

SUPREME COURT OF THE UNITED STATES.

No. ~~97.~~ 27.

HENRY BEARD, WILLIAM A. BEARD, LEWIS HAWKINS, AND MARY HIS WIFE, PLAINTIFFS IN ERROR,

VERSUS

JOHN ROWAN.

IN ERROR TO THE CIRCUIT COURT U. S. FOR THE KENTUCKY DISTRICT.

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Preamble.

Pleas before the Honorable John McLean and John Boyle, Judges of the seventh circuit court of the United States of America, in and for the district of Kentucky, held at the capitol, in the town of Frankfort, at the November term of said court, in the year of our Lord one thousand eight hundred and thirty-one.

BEARDS, *vs.* ROWAN.

Be it remembered that, heretofore, to wit: on the 6th day of January, in the year 1830, came Henry Beard, William A. Beard, and Lewis Hawkins, and Mary his wife, by their attorney, into the clerk's office of the court aforesaid, and sued out the following writ of right against John Rowan, to wit:

Writ of Right.

The United States of America to the marshal of the Kentucky district, greeting: Command John Rowan, a citizen of the State of Kentucky, and that he justly and without delay render unto Henry Beard, a citizen of the State of Ohio, and William A. Beard, and Lewis Hawkins, and Mary his wife, citizens of the State of Missouri, all that part of the town of Louisville which lies north of Water street; beginning at a stone block on the Ohio river, thirty-five poles above the mouth of Beargrass creek, running thence south 37¼° east across said creek, to Water street; thence, bordering on said street, down the river, to the point where said street crosses the 1,000 acre tract line of Col. Connolly, on which Louisville was originally laid out; thence, with said line to its northern extremity; and thence, with its various changes of direction, to the beginning, with the appurtenances in the county of Jefferson, and district aforesaid, which they claim to be theirs, and whereof they complain that the aforesaid John Rowan doth withhold the possession; and unless he shall do so, then summon the said John Rowan, that he appear before the judges of our seventh circuit court of the United States of America in and for the district of Kentucky, at the capitol, in Frankfort, on the first Monday in May next, to show cause wherefore he has not done it, and have then there this writ. [L. S.]

In testimony whereof, John Marshall, esq., Chief Justice of the Supreme Conrs of the United States hath caused the seal of our said court to be hereunto affixed, this 6th day of January, A. D. 1830, and in the 54th year of our independence.

Attest: JNO. H. HANNA, *C. C. C. K. D.*

Marshal's returned.

Not found. Copy left. A. M. CLARK, *D. M. K. D.*

Als. Writ of Right.

The United States of America to the marshal of the Kentucky district, greeting: Again command John Rowan, a citizen of the State of Kentucky, and that he justly and without delay render unto Henry Beard, a citizen of the State of Ohio, and William A. Beard, and Lewis Hawkins, and Mary his wife, citizens of the State of Missouri, all that part of the city of Louisville which lies north of Water street; beginning at a [L. S.]

stone block on the Ohio river, thirty-five poles above the mouth of Beargrass creek, running thence south 37¼°, east across said creek to Water street; thence, bordering on said street down the river, to the point where said street crosses the 1,000 acre tract line of Col. Connolly, on which Louisville was originally laid out; thence, with said line, to its nothern extremity; and thence, with its various changes of direction, to the beginning; containing one hundred acres, with the appurtenances, in the county of Jefferson and district aforesaid, which they claim to be their right, and whereof they complain that the aforesaid John Rowan doth withhold the possession; and unless he shall do so, then summon the said John Rowan, that he appear before the Judges of our seventh circuit court of the United States of America, in and for the district of Kentucky, at the capitol in Frankfort, on the first Monday in November next, to show cause wherefore he has not done it, and have then and there this writ.

In testimony whereof, John Marshall, esq., Chief Justice of the Supreme Court of the United States, hath caused the seal of our said court to be hereunto affixed, this 3d day of June, A. D. 1830, and in the 54th year of our independence.

Attest: JNO. H. HANNA, *C. C. C. K. D.*

Marshal's returned.

Executed, October 5th, 1830. A. B. MORTON, *D. M. K. D.*

And afterwards, to wit, on the 18th day of May, 1831, came the demandants, by their attorney, and filed the following count herein, to wit:

Count.

Henry Beard, a citizen of the State of Ohio, William A. Beard, and Lewis Hawkins, and Mary his wife, citizens of the State of Missouri, by their attorney, demand against John Rowan one tenement, containing one hundred acres of land, being that part of the city of Louisville which lies north of Water street; beginning at a stone on the Ohio river, thirty five poles above the mouth of Beargrass creek, running thence, south 37¼° east across said creek, to Water street; thence, bordering on said street down the river, to the point where the said street crosses the line of Connolly's original survey of 1,000 acres; thence, with said line to its northern extremity; thence, with its various changes and directions, to the beginning: Whereupon the said Henry, William, Lewis, and Mary, say that they have a right to have the tenement aforesaid, with the appurtenances, and offer proof that such is their right.

JA. HAGGIN.

And afterwards, to wit, at the November term of the court aforesaid, in the year 1831, until which time this cause was continued.

Plea.

The said John Rowan, by his attorney, James Guthrie, comes and defends the right of the said Henry Beard, William A. Beard, and Lewis Hawkins, and Mary his wife, when and where, and where it behoveth him, and all that concerns it, and whatsoever he ought to defend, with its appurtenances, and one parcel of the tenement aforesaid, namely, a tenement of ninety-five acres, in the county of Jefferson and city of Louisville, and bounded as follows, to wit: beginning at the mouth of Beargrass creek, on the upper

side; thence, north 87°, west 120 poles, thence, north 50°, west 110 poles, to a square hole in a rock, corner of the town tract of Louisville; thence, south 40°, west, to the edge of the Ohio river at low water mark; thence up said river, and binding thereon at low water edge, to the mouth of said Beargrass creek, on the low side thereof; and thence across the mouth of said creek, to the beginning, and puts himself upon the assize, and prayeth recognition to be made, whether he hath greater right to hold the tenement last aforesaid, as he now holdeth it, or the said Henry Beard, William A. Beard, and Lewis Hawkins, and Mary his wife, to have it as they now demand it; and as to the residue of the tenement in the court of the demandants mentioned, he says that he does not hold the same. And the demandants, Henry Beard, William A. Beard, and Lewis Hawkins, and Mary his wife, in like manner puts themselves upon the assize, and pray recognition to be made whether they have greater right to hold the tenement aforesaid, as they demand it, or the said John Rowan. as he holdeth it: and thereupon came a jury, to wit: Larkin Samuel, John Samuel, Benjamin Hickman, John D. McClure, A. C Keenon, Roger Devine, James L. Russell, James C. Hardin, Walker Deering, Joseph Carter, A. R. Lindsey, and William Daviess, who, being elected, tried, and sworn to say the truth, whether the said demandants have more right to have the tenement as they now demand it, or the said tenant to hold, as he now holdeth it, and there not being time to complete the trial of said cause, it is ordered that the jury be adjourned over to meet again on Monday morning, at ten o'clock.

July.

Adjournment of jury to meet again.

And afterwards, to wit, on a subsequent day of the term and year last aforesaid, to wit, the November term, 1831, came the parties aforesaid, by their attorneys, and the jury empannelled and sworn in this cause on a former day of this term, appeared in court; but there not being time to finish the trial of the cause on this day, it is ordered that the jury be adjourned over to meet again on to-morrow morning at nine o'clock.

And afterwards, to wit, on a subsequent day of the term and year last aforesaid, to wit, the November term, 1831, came the parties, by their attorney in the foregoing cause, and agreed that the following *agreed facts* shall be used on the trial of said cause, to wit:

Facts Agreed.

"The parties in this cause agree the following facts, to wit: First. That John Campbell was born in the Kingdom of Ireland; that he came to the United States of America prior to the revolutionary war; that he continued to reside in the said United States, from the time of his migration thereto, until he departed this life in the month of October, 1799, in the county of Fayette, in the State of Kentucky, where he then resided; that on the 25th day of July, 1786, he made and duly published his last will and testament, bearing that date, with an endorsement thereon dated the 5th day of April, 1791; that said will and endorsement were duly proved and recorded on the 13th day of January, 1800, in the county court of the said county of Fayette; and that the copy hereto annexed, J. C., and made part hereof, is a true copy of the said last will and testament and endorsement thereon; and that the said John Campbell was seized, in fee simple, at the time of his death, of the premises in question in this action, and that he died without ever having been married.

Second. That Robert Campbell was born in the Kingdom of Ireland; that he migrated to the United States of America before the revolutionary war between the United States of America and Great Britain; that he continued to reside therein until his death, which happened in August, 1805, near Louisville, in the county of Jefferson, in the State of Kentucky; that he had resided in Kentucky many years before his death; that he was a brother of the whole blood of the said John Campbell, and died intestate, and was never married.

Third. That Allen Campbell was born in the Kingdom of Ireland, and was about 25 or 26 years of age when he died; that he migrated to the United States in the year 1796, and resided in the city of Philadelphia until he came to the State of Kentucky, which was in the month of December, 1799; that he resided in Kentucky from that time until the 16th day of September, 1804, when he departed this life intestate, and was never married. That he was a half-brother on the father's side to the said John and Robert Campbell and Sarah Beard.

Fourth. That said Sarah Beard was born in the Kingdom of Ireland, and migrated to the State of Kentucky in the year 1800, where she continued to reside until October, 1806, when she departed this life; that she was a sister of the whole blood to the said John and Robert Campbell, and sister of the half-blood to the said Allen Campbell, on the side of the father; that she was a widow when she came to Kentucky, and continued to be a widow until her death; that at her death she had three surviving children, to wit, William Beard, Joseph Beard, and Elizabeth Megowan, all of whom were born in Ireland; that the said William Beard came to the United States in the 1790, and was never naturalized, and departed this life in the year 1813; that he was married, and had two children, issue of said marriage, at the death of said John Campbell, to wit, Nancy C. Beard and Sarah Beard, who were his only children at that time; that said Nancy C. Beard intermarried with Robert Bywaters, and is still living; and Sarah Beard intermarried with Hankerson Bywaters, and is still living; that the mother of the said Nancy and Sarah departed this life, and the said William Beard married a second time, and had the following issue of said marriage, to wit, *to wit*, William A. Beard, Catharine Beard, Mary Beard, John Beard, Charles Beard, and Joseph Beard, all of whom were born since the death of the said John Campbell; that the said Catharine Beard has intermarried with, and is now the wife of Henry H. Shepard; that the said Mary Beard has intermarried with, and is now the wife of Lewis Hawkins; that the said Charles Beard departed this life in March, 1831, and infant and childless; that the said John, Charles, and Joseph Beard were born since the death of the said Sarah Beard; that the said Joseph Beard and Elizabeth Megowan, children of the said Sarah Beard, came with her to Kentucky, and are still living; that the following are the children of the said last named Joseph Beard, to wit, Henry Beard, Ann Daley, wife of Lawrence Daley, Isabella McLear, wife of Charles McLear, Sarah McLear, wife of Francis McLear, and Joseph Beard, jr.

Fifth. That the said John Campbell, Robert Campbell, Allen Campbell, and Sarah Beard, were the only surviving children of Allen Campbell, the elder, who departed this life in Ireland before the said John Campbell.

Sixth. That Charles Simms and Richard Taylor survived the other trustees and executors of John Campbell; that said Simms departed this life in

the District of Columbia, about the year 1825 or 1826, never having been in the State of Kentucky; that neither of the other trustees, except Taylor and Sullivan, were ever in the State of Kentucky after the death of said John Campbell; that said Taylor resided therein at the death of Campbell, and so continued until his death, which happened in the year 1828 or 1829; and that said Taylor alone qualified as executor of *of* said John Campbell, in Kentucky.

Seventh. That the said defendants were possessed of the premises in contest in this action at the time *of the time* of the service of the process on them in this case, and are now in possession thereof, and also were in possession of said premises before and on the 21st day of April, 1826. The parties aforesaid do further agree that it shall be competent for either of them to introduce evidence, either written or parol, to establish any facts not herein and hereby agreed to and admitted, which they or either of them may deem necessary and within the issue.

R. WICKLIFFE, *for Deman'ts.*
WORDEN POPE, *for Tenants.*

And afterwards, to wit, on a subsequent day of the term and year, last aforesaid, to wit, the November term, 1831, on the 15th day of November, came the parties aforesaid, by their attorneys, and the jury empannelled and sworn in this cause, on a former day of this term, appeared in court, and the trial of the cause was completed, and the jurors aforesaid, upon their oaths, returned the following verdict, to wit: "We, of the jury, find that the tenant has more right to hold the tenement as he now holds it, in the written count mentioned, than the demandants to have it as they now demand it."

Verdict.

It is therefore considered by the court that the said John Rowan go hence, and recover of the said demandants his costs by him about his defence of this suit expended.

And afterwards, to wit, on a subsequent day of the term and year last aforesaid, to wit, the November term, 1831, the demandants, by their council, presented to the court the following bill of exceptions; which was signed and sealed by the court, and ordered to be entered of record, to wit:

Bill of Exceptions.

Be it remembered, that, upon the trial of this cause, the demandants, by their attorneys, read in evidence to the jury,—1st, the *facts agreed*, by the parties, marked A, and made part hereof, to wit, (here to be recited.) 2d. The copy of John Campbell's will, and the endorsements thereon, marked J. C., and made part hereof, to wit, (here to be recited,) and which copy, marked J. C., is the same mentioned in the said agreed facts. 3d. The copy of a deed from the trustees of Louisville to John Campbell, dated the 8th day of November, 1788, marked No. 1, also B, and made part hereof, to wit, (here to be copied.) 4th. The copy of a deed from Richard Taylor, surviving executor and trustee of John Campbell's will, to Joseph Beard, Elizabeth Megowan, and the heirs of William Beard, deceased, dated the day of April, 1826, marked C, and made part hereof, to wit, (here to be recited.) 5th. The deed from Joseph Beard to Henry Beard, &c., dated the 5th day of April, 1826, marked D, and made part hereof, to wit, (here to be recited.) The tenant, Rowan, by his attorney, read in evidence to the jury the copy of a deed marked No. 5, from Sarah Beard to Fortunatus Cosby; also, the copy of a deed marked

number 6, from said Cosby to Henry Clay; also, the copy of a deed marked No. 7, from Cosby and wife to William Lytle; also, the copy of a deed marked No. 8, from Clay and wife to Lytle; also the copy of a deed marked No. 9, from Bywaters, &c. to Lytle; and, also, the copy of a deed marked No. 11, from Lytle to Rowan—all of which deeds marked Nos. 5, 6, 7, 8, 9, and 11, are made part hereof, to wit, (here to be recited.) The said Rowan read, by consent of the demandants, the deposition of Thomas Bodley to the jury, marked No. 12, and made part hereof, to wit, (here to be recited.) James Hunter was sworn and examined by, and as a witness for the said Rowan, and gave the evidence to the jury contained in said Hunter's statement in writing, marked No. 13, and made part hereof, to wit, (here to be recited.) Robert Breckenridge was also sworn and examined by, and as a witness for said Rowan, and gave to the jury the evidence contained in the said Breckenridge's statement, in writing, marked No. 14, and made part hereof, to wit, (here to be recited.) And this was all the evidence given on both sides; and thereon the demandants made a motion to the court for the instructions following to the jury, marked E, to wit, (here to be inserted;) and the tenant, Rowan, moved the court for the following instructions to the jury, marked No. 15, made part hereof, to wit, (here to be inserted.) The court overruled the instructions so moved by the demandants, and gave to the jury the instructions asked for by the tenant.

JOHN McLEAN. [SEAL.]
JOHN BOYLE. [SEAL.]

John Campbell's Will.

J. C.

I, John Campbell, of the county of Jefferson, and commonwealth of Virginia, do make and ordain this to be my last will and testament, in manner and form following; that is to say: I give and devise to James Milligan, Charles Simms, William Elliott, and Philip Ross, and to the survivors and survivor of them, whom I do hereby appoint executors of this my last will and testament, all my estate, both real and personal, to them and the survivors and survivor, and their heirs in trust, and for the uses, intents, and purposes herein after mentioned, to wit, to sell and dispose of my slaves and personal estate on twelve months' credit, and out of the money arising from the sales thereof to pay and satisfy my just debts as soon as the money can be collected, notwithstanding any law now existing, or which may hereafter exist to the contrary thereof; and as I am possessed of sundry Virginia land warrants issued in consideration of military service, it is my will and desire that my said executors shall take the most effectual measures for locating such warrants, and for obtaining grants for the lands to which I am entitled thereupon, as well as all other lands to which I am entitled both in Pennsylvania and Virginia; to enable them to do which, I hereby empower them to give such proportion of the said warrants as they shall think reasonable for locating the remainder, or to give a pecuniary consideration therefor, if they shall think it proper so to do. And all grants to be issued as aforesaid, shall issue in the names or name of any said trustees or trustee, and be subjected to the several devises herein contained, in the same manner as if such titles were now completed. All the rest and residue of the money arising by the sale of the slaves and personal estate to be transmitted

to my father, Allen Campbell, of the town of Strabane, and county of Tyrone, in the Kingdom of Ireland, to whom I give and bequeath the same; but in case he shall die before the said legacy shall be paid him, and without making disposition thereof, I then give and bequeath the same, or so much thereof as may not be received or disposed of, as followeth; that is to say: one-third thereof to my half-brother Allen Campbell, to be paid him whenever he shall arrive at the age of twenty-one or marry, and in the mean time, his third part shall be lent out on interest, and the interest annually transmitted to his guardian, to be applied toward his maintenance and education; and in case my said half-brother, Allen Campbell, shall die before he shall arrive at the age of twenty-one years, and without marrying and leaving child or children, then, I then give and bequeath the said one-third part to the use of my sister, Sarah Beard, and all the children which she now hath, or may hereafter have, to be continued at interest as aforesaid, and said interest to be annually transmitted to her and the guardians of her children, and applied to their joint and equal benefit; but should she marry a second time, and have children by her second husband, then the proportion of the children by such second marriage, to be transmitted to their father; but whenever any of her said children shall come of age or marry, then a proportionable part of the interest shall be paid such children, and so on, till they shall all come of age or marry; the proportion of my said sister, of the principal, shall also, upon her death, become the property of her children, and subject to the same directions, with respect to the interest and to the same mode of dividing, as is before provided for, in paying them their other parts; all the rest and residue of the aforesaid money given to my said father, which shall not, in his life-time, receive or make disposition of by will, I give and bequeath to the use of my said sister, and all her children, which she hath or may have as aforesaid, to be disposed in the same manner, in the same proprtion, and under the same limitations and conditions with the other one-third part as is directed and provided for, upon the contingency of my said half brother's dying before he shall arrive at the age of twenty one, and without marrying, and leaving a child or children, happening.

It is my further will and desire that my said trustees shall annually account for, and pay to my said father, all the profits of my real estate, to whom I give the same for and during his natural life; but, should he die without receiving or making disposition thereof, or of any part of such profits, I then direct that the same, or so much as may not be received or disposed of, shall be appropriated to the use of my said sister, and all the children which she hath, or may have, to be disposed of in the same manner, in the same proportions, and under the same conditions and limitations, as are provided and directed in the last mentioned bequest. I do further direct that after the decease of my said father all the profits arising from my lands, at or within five miles of the mouth of Beargrass, Jefferson county, shall be annually paid to the guardian of my said half brother during his minority, to be applied to his education and maintenance, if so much be required therefor; if not, then the overplus to be laid out on interest by my said trustees, till my said half-brother shall arrive at the age of 21 years, or marry; but, upon either of the said contingencies happening, the aforesaid profits shall then and thenceforth be paid to my said half brother for and during the term of five , and if within that time my said half brother shall become a

citizen of the United States, or be otherwise qualified by law to take and hold real estate within the same, I then direct that my said trustees, or the survivors or survivor, of them, shall convey to him, my said half-brother Allen Campbell, his heirs or assigns, in fee simple, all the lands hereinbefore described in this devise; but if my said half brother shall not within the time aforesaid become a citizen as aforesai , I then direct that my said trustees, or the survivors or survivor of them, shall sell and dispose of the aforesaid lands hereby directed to be conveyed to him on two years' credit, with interest from the date, to be paid annually, and the money and interest arising from such sale to be transmitted to my said half brother, to whom I give and bequeath the same. It is my further will and desire that, in case my said half brother shall die before the expiration of the aforesaid term of five years after his arrival at the age of twenty-one years, the land intended by the next preceding clause to be devised to him, shall be sold by my said trustees on two years' credit, and the money arising from such sale, when received, shall be transmitted to the guardians of the children which my said half brother may leave, to be by the said guardians lent out on interest, and an equal division shall be made hereof amongst them; but should my said half brother become a citizen of the United States of America, or be otherwise qualified to hold real estate within the same before his death, it is then my will and desire that he shall have the sole and absolute disposal of all the estate hereinbefore devised and bequeathed to him. Notwithstanding he may not have obtained deeds therefor , from my said trustees, it is my further will and desire that, in case my said half-brother shall die before he shall become qualified to hold real estate as aforesaid, and without children or a child, my said trustees shall make sale of the lands hereby directed to be conveyed to him, as is before directed, on two years' credit, and that the money arising by sale be appropriated to the use of my said sister, Sarah Beard, and all the children which she hath, or may hereafter have, to be lent out on interest, as is directed in the several devises, bequest, and limitations hereinbefore made to them, the interest and principal to be transmitted, and their proportions thereof respectively to be the same, and subject to the same rules, limitations, and conditions as are directed and prescribed in the cases of the other before mentioned devises and bequests to my said sister and her children.

I further will and direct that, after the decease of my said father, all the profits of my landed estate, not hereinbefore directed to be conveyed to my half-brother Allen Campbell, shall, for and during the natural life of my sister, be appropriated to the use of my said sister, Sarah Beard, and the children which she hath, or may have, to be equally divided amongst them; and that their respective proportions be annually transmitted to them, or the guardians, or father of such of them as shall be infants; but on the death of my said sister, I then direct that all my said landed property, not hereinbefore directed to be conveyed to my said half-brother, A. C., shall be disposed of on two years' credit, with interest from the day of sale, and to be continued on interest till the oldest of my said sister's children shall arrive at the age of twenty-one years, or marry, upon which events happening, I direct that one equal distributive share of the money arising by the said sale, shall be collected and paid to such child, and whenever the rest of the children, respectively, come of age or marry, the like proportion of such

money shall be collected and paid them, until which time, I direct that the interest shall be annually collected and transmitted to the guardians of such children, to be applied towards their education and maintenance, and to be equally divided between them. I further will and direct that, in case any of the children of my said half brother, or my sister, shall die before they arrive at the age of twenty-one years, or marry, all that part of the estate hereby directed to be paid them shall be considered as the joint property of the surviving brothers and sisters of those so dying, and be subject to the same rules, directions and limitations, and divided amongst them in the same manner with the other part of such estate. But if any other of such children shall have departed this life, leaving a child or children, such child or children shall be entitled to the proportion hereby given to the ancestor. And whereas I conceive to be greatly to the interest of the several devisees herein before mentioned, to become citizens of America, and take possession of such parts of my estate as are hereby intended for them, respectively, instead of selling the same, and receiving the consideration thereof, I do therefore direct that all and every such devisee shall have a right to receive their respective proportions of whatever lands may be undisposed of at the time of their becoming qualified to take and hold the same, and that my said trustees, or the survivors or survivor of them, shall make fair and equitable divisions accordingly, and convey to them their respective proportions as aforesaid; and should my said sister come over to America before that part of my lands hereby intended for her and her children shall be disposed of by my trustees, I then direct that the same shall not be sold, but that the profits thereof shall be annually appropropriated to the use of her and her children as aforesaid, until her children shall come of age, or marry; but that whenever any one of them shall arrive at the age of 21, or marry, his or her proportion of such land shall be conveyed by my said trustees, or the survivors or survivor of them, in fee simple, provided such child shall be capable of holding the same. I hereby direct that upon all sales, which shall be made of any part of the property herein directed to be sold, good landed security shall be taken for the payment of the purchase money in specie. I further will and direct that all money which my said trustees or executors shall have to remit to my devisees aforesaid, shall be, from time to time, put into the hands of James Milligan, esq., now of the city of New York, of the State of New York, and comptroller of the Continental Treasury, to be by him remitted to the persons entitled to receive the same. And whereas the provisions herein before made for the education and maintenance of my said half brother A. C., may not prove sufficient therefor, and it being my wish that his education shall be liberal and extensive as his genius will admit of, I do therefore direct that his guardian, during his minority, shall have power to call upon my said trustees for whatever sum he shall find necessary for the purpose aforesaid, and that in case the annual interest and profits of his part of the estate shall not be sufficient, they shall have power to appropriate any part of his estate to that use which they may think fit, and to sell and dispose of any part of his lands which may be necessary for that purpose. I do hereby declare that it is my will and desire that no part of my estate, of any kind, shall go to my brother R. C., in any manner whatever, and as unforeseen events may happen which may make it prudent to delay making the sales herein directed to be made, I do therefore authorize my said trustees,

or the survivors or survivor, to use their or his discretion therein so as to guard against such inconveniences and losses as there may be danger of the estate suffering by precipitating the sales. I also authorize them or him to alter the times of credit upon such sales, should it be found to the interest of the estate so to do.

I do hereby revoke all former and other wills by me made.

In witness whereof, I have hereunto set my hand, and affixed my seal' this 25th July, 1786.

JOHN CAMPBELL. [Seal.]

Signed, sealed, published, and declared by the testator as and for his last will and testament, in presence of us, who subscribed our names as wit nesses, in his presence, and by his desire. Harry Innis, T. Perkins, Christ. Greenup.

The executors named in my last will and testament are James Milligan, as aforementione l; Charles Simms, of the town of Alexandria, in the county of Fairfax, attorney at law; Richard Taylor, and of Jefferson county; Wm. Elliot, of Westmoreland county, and State of Pennsylvania; and Philip Ross, of the county of Washington, in the same State.

JOHN CAMPBELL.

I, John Campbell, have this day erased the name of James Sullivan from the number of my executors, as he has destroyed in my life time the confidence which I would wish to repose in a man that would, in my opinion, be worthy to act for me after my death.

J. CAMPBELL,
April 5th, 1791.

B.

Wm. Taylor, &c. to Jno. Campbell.—Deed.

This indenture, made this 8th day of November, in the year one thousand seven hundred and eighty-seven, between William Taylor, Robert Breckenridge, David Merriwether, John Clarke, and James Francis Moore, gen't., commissioners for selling and conveying the lands in the town of Louisville, remaining unsold, of the one part, and John Campbell, of the county of Jefferson, of the other part, witnesseth, that for and in consideration of twenty-one pounds current money of Virginia, to the said William Taylor, Robert Breckenridge, David Merriwether, John Clarke, and James Francis Moore, in hand paid, the receipt whereof they hereby acknowledge, they have given, granted, bargained and sold, and by these presents do give, grant, bargain, and sell, unto the said John Campbell, his heirs and assigns, a certain tract or parcel of land, being part of one thousand acres, the forfeited land of John Connolly, and part of the town of Louisville, and bounded as follows, to wit, beginning south, eighty-three degrees, west thirty five poles, from the upper corner of the town land, and at the mouth of Beargrass; thence north, eighty-seven degrees west, one hundred and twenty poles; thence north, fifty degrees west, one hundred and ten poles, to a square hole in a rock or corner of said town land, and other lands of said John Campbell; thence with the partition line of said John Campbell, and the town land, south, forty degrees west, to the north side of

Water street; thence up Water street to the mouth of Beargrass; thence across the mouth of Beargrass, to the beginning, with its appurtenances.

To have and to hold the said tract or parcel of land, with its appurtenances, to the said John Campbell and his heirs, forever, to the only proper use and behoof of the said John Campbell and his heirs, forever.

In witness whereof, the said William Taylor, Robert Breckenridge, David Merriwether, John Clarke, and James Francis Moore, have hereto set their hands, and affixed their seals, the day and year first above written.

WM. TAYLOR. [Seal.]
D. W. MERRIWETHER. [Seal.]
JOHN CLARKE. [Seal.]
JAMES FRS. MOORE. [Seal.]

Sealed and delivererd in presence of—
WM JOHNSTON.
RICH'D. EASTIN.
WM. PEYTON.
ALEX. BRECKENRIDGE.

At a court held for Jefferson county, January 1st, 1788, the above deed of conveyance from the commissioners of Louisville to John Campbell, for part of John Connolly's escheated land, was proved by the oaths Richard Eastin, William Peyton, and Alex. Breckenridge, and ordered to be recorded.

Teste: WM. JOHNSTON, *C. J. C.*
A copy. Teste: WORDEN POPE, *Clerk.*

C.

Taylor to Beard, &c.—Deed.

This indenture made and entered into this 21st day of April, one thousand eight hundred and twenty six, between Richard Taylor, of Jefferson county, Kentucky, of the one part, as executor of the last will and testament, and trustee of the estate, of John Campbell, deceased, formerly of Jefferson county, but late of the county of Fayette, and State aforesaid, and Joseph Beard, Elizabeth Megowan, and the heirs of William Beard, deceased, of the other part, witnesseth, that, whereas the said John Campbell did, by his last will and testament duly made and published on the 25th day of July, (1786) one thousand seven hundred and eighty-six, devise to James Milligan, Charles Simms, Richard Taylor, William Elliott, and Philip Ross, and the survivors and survivor of them whom he did thereby appoint executors of his last will and testament, also his estate, both real and personal, in trust for certain uses and intents therein mentioned; and whereas all the said executors and trustees have renounced the execution of said will, except Richard Taylor, the first party to these presents; and whereas the said John Campbell, deceased, did, by his last will and testament, provide that all his real estate in the county of Jefferson aforesaid, within five miles of the mouth of Beargrass creek, should be conveyed to his half brother, Allen Campbell, so soon as he become a citizen of the United States, or should be otherwise qualified to hold real estate; or that in either event happening, the said Allen Campbell should, without a deed from the trustees or trustee of said John Campbell's will have the disposal of said real estate within the limits aforesaid; and whereas the said Allen Campbell died in 1864, without having disposed of certain parts of

said real estate in any way, and without having ever received a title to said real estate, by which it again averted to the estate of said Campbell, and become subject to the devises in his will as to so much thereof as was undisposed of by said Allen Campbell during his life time.

And whereas the said Richard Taylor, sole executor and trustee as aforesaid, in consideration of the premises, is willing to convey the property aforesaid, except so much thereof as he hath this day conveyed in a separate deed to same parties, to the heirs of Sarah Beard, deceased, as is directed in the said last will and testament of said John Campbell, as will more fully appear, reference being had thereto: Now, therefore, in consideration of the premises, and for the further consideration of one dollar to him in hand paid, the receipt whereof he doth hereby acknowledge the said Richard Taylor, as executor and trustee as aforesaid, hath granted, bargained, sold, aliened and confirmed, and by these presents doth grant, bargain, sell, alien, and confirm, to the said parties of the said second part, excepting from the heirs of William Beard, Nancy C. and Sally Bywaters, who have already sold and disposed of all their right, title, and interest in and to the same, a certain tract or parcel of land lying and being in the county of Jefferson, on the Ohio river, adjoining the town of Louisville, containing, by estimation, three thousand acres, be the same more or less; one thousand acres of which being the one half of two thousand acres patented by the King of Great Britain to John Connolly, by patent bearing date the 16th day of September, one thousand seven hundred and seventy-three; the other two thousand acres patented to Charles D. Warnsdoff, the patent bearing date the day and year last mentioned, and bounded as described in the said patents, as will more fully appear on reference being had thereto. Also, all the unsold lots in the town of Louisville, consisting of twenty acre lots, ten acre lots, five acre lots, half acre lots, and other lots and parcels of ground, deed to Col. John Campbell; also, all the island in the said river Ohio, near the said town of Louisville, lately in the possession of Allen Campbell; also, all the ground and ferry at the lower landing in Shippingport, together with all and singular the premises and appurtenances thereunto belonging, or in any wise appertaining; and all the estate, right, title, interest or claim of him the said Richard Taylor, of, in, or to the same—to have and to hold the said land, lots, island, ferry, and all and singular the appurtenances to the said party of the second part, their heirs and assigns, forever; and the said Richard Taylor, for himself, his heirs, adm'rs and assigns, the said estate above conveyed to the said parties of the second part, will forever defend against the claim or claims of all and every person claiming by or through him.

In testimony whereof, the said Richard Taylor, as executor and trustee aforesaid, hath this day and date first above written hereunto set his hand and seal, having first erased part of the second and third lines from the top of this page, as also a part of the eleventh line of said page.

RICH'D. TAYLOR. [Seal.]

Witness:
ROBT. TYLER, *D. Clerk.*

I, the clerk of the county court of Jefferson county, in the State of Kentucky, do certify that, on this day, the above named Richard Taylor came personally before me in my office, and delivered and acknowledged the fore-

going deed to be his act and deed, and that I have recorded the said deed in my said office. Witness my hand, this 22d day of April, 1826.

WORDEN POPE.

A copy. Teste: WORDEN POPE, *Clerk*,
By ROBERT TYLER, *D. Clerk.*

D.

Beard to Beard, &c.—Deed.

This indenture, entered into this fifth day of April, one thousand eight hundred and twenty-six, between Joseph Beard, of the one part, and Henry Beard, Lawrence Dailey, and Anne his wife, Francis McLear, and Sarah his wife. Charles McLear, and Isabella his wife, and Joseph M. Beard, witnesseth, that, for and in consideration of the natural love and affection which the said party of the first part bears towards his children, the parties of the second part and for the further consideration of one dollar in hand paid to him by the said parties of the second, he doth hereby give, alien, sell, convey, and assign to the said parties of the second part, all his right, title, claim and interest, in and to the estate of Col. John Campbell, deceased, in the counties of Jefferson and Shelby, in State aforesaid, for which suits are about to be commenced by the heirs of said Campbell, of which said Joseph is one, for and in consideration of which the parties of the second part hereby bind themselves to pay that part of the expenses of said suits which will fall on said Joseph in the prosecution thereof.

In witness whereof, the parties have hereunto set their hands and seals, the day and date above written, in Fayette county, State of Kentucky.

JOSEPH BEARD, Sen. [Seal.]
J. BEARD. [Seal.]
SAM'L. DAILEY. [Seal.]
ANN DAILEY. [Seal.]
FRANCIS McLEAR. [Seal.]
SARAH McLEAR. [Seal.]
CHAS. McLEAR. [Seal.]
ISABELLA McLEAR. [Seal.]
JOS. M. BEARD. [Seal.]

Teste:
H. H. SHEPPARD.
L. C. HAWKINS.

STATE OF KENTUCKY, *Fayette county, to wit:*

22*d May*, 1826.

This indenture was this day produced to the clerk of the court for the county aforesaid, and proved by the oaths of H. H. Sheppard and Lewis C. Hawkins, the subscribing witnesses thereto, and the same is thereupon truly recorded in my office.

Attest: J. C. RODES, *Clerk.*

COMMONWEALTH OF KENTUCKY, *Fayette county, to wit:*

I, James C. Rodes, clerk of the county court for the county aforesaid, do certify that the foregoing deed is truly copied from the records in my office, together with the certificates:

In testimony whereof, I have hereunto set my hand, and [L. S.] affixed the seal of said county, this 12th day of February, 1830, and in the 38th year of the Commonwealth.

J. C. RODES, *C. F. C. C.*

COMMONWEALTH OF KENTUCKY, *Fayette county, to wit:*

I, Waller Bullock, the eldest and presiding judge and justice of the peace in and for the county court aforesaid, do certify that James C. Rodes, who has signed the foregoing certificate, is, and was at its date, the duly authorized clerk of said court, appointed and qualified as the law directs, and that said certificate is in due form.

Given under my hand and seal, this 13th day of February, 1830.

WALLER BULLOCK, *P. J. P.* [Seal.]

COMMONWEALTH OF KENTUCKY, *Fayette county, to wit:*

I, James C. Rodes, clerk of the county court for the county aforesaid, do certify that Waller Bullock, esq., who has signed the foregoing certificate, is, and was at its date, the eldest and presiding judge and justice of the peace in and for the county court, in the county aforesaid, duly commissioned and qualified as the law directs; and to all his acts as such full faith and credit is, and ought to be given.

Given under my hand, this 15th day of February, 1830.

J. C. RODES, *Clerk F. C. C.*

No. 5.

Sarah Beard to Fort. Cosby.—Deed.

This indenture, made this seventh day of July, 1806, between Sarah Beard, of the one part, and Fortunatus Cosby, of the other part, witnesseth: that the said Sarah Beard, for and in consideration of the sum of ten thousand dollars to her in hand paid by the said Fortunatus Cosby, the receipt whereof she hereby acknowledges, hath granted, bargained, aliened, and confirmed, and by these presents doth grant, bargain, alien, and confirm unto the said Fortunatus Cosby, a certain tract or parcel of land lying and being in the county of Jefferson, on the Ohio river, adjoining the town of Louisville, containing, by estimation, three thousand acres, be the same more or less—one thousand acres of which, being the one half of two thousand acres patented by the King of Great Britain to John Connolly, by patent bearing date the 10th day of September, one thousand seven hundred and seventy-three; the other two thousand acres patented to Charles D. Warnsdoff, the patent bearing date the day and year last mentioned, and bounded as described in the said patents, as will more fully appear, reference being had to the same: also, all the unsold lots in the town of Louisville, consisting of twenty acre lots, ten acre lots, five acre lots, half acre lots, and other lots and parcels of ground deeded to Col. John Campbell;

also, all the islands, in the said river Ohio, near the town of Louisville, late the property of Allen Campbell, deceased; also, the ground and ferry at the lower landing in Shippingport; which said tract of land, lots, parcels of ground, islands and ferry, Sarah Beard holds title to as the heir and representative of Allen Campbell, deceased, together with all and singular the premises and appurtenances thereunto belonging, or in anywise appertaining; and the remainder and remainders, reversion and reversions, rents, *reivines*, issues and profits of all and singular the said premises, with their appurtenances, and all the estate, right, title, property, claim and demand whatsoever, whether legal or equitable, of her the said Sarah Beard, of, in, and to the said land, lots, islands and ferry, and premises; and of, in, and to every part and parcel thereof, with their and every of their appurtenances, and all deeds, evidences and writings in any manner concerning the said premises, or any part thereof--to have and to hold the said lands, lots, island and ferry, and all and singular the premises hereby granted, with and every of their appurtenances, unto the said Fortunatus Cosby, his heirs and assigns forever, to his and their only proper use, benefit, and behoof; and the said Sarah Beard, for *him*self, *his* heirs, exo'rs adm'rs, and assigns, doth covenant, grant and agree to and with the said Fortunatus Cosby, his heirs and assigns, by these presents, that she, the said Sarah Beard, her heirs and assigns, will at all times hereafter make and execute such other and further conveyances as may be found necessary to complete the said Fortunatus Cosby, his heirs and assigns', title to the said lands, lots, islands and ferry; and the said Sarah Beard, for herself, her heirs, executors, adm'rs, and assigns, the said tract of land, lots, islands and ferry, with their appurtenances, unto the said Fortunatus Cosby, her heirs, executors, administrators and assigns, will warrant and defend against her, the said Sarah Beard, her heirs and assigns, and against the claim of all persons claiming by, through, from, or under, her or them, but not against the claim of any other person whatsoever. And it is expressly agreed and understood that, in case the whole, or any part of the said lands, lots, island and ferry, should be lost or recovered from the said Fortunatus Cosby, his heirs and assigns, that the said Sarah Beard, her heirs, ex'ors., adm'rs., and assigns, are in no wise whatever to be liable.

In witness whereof, the said Sarah Beard hath hereunto set her hand and seal, the day and year first above written.

SARAH BEARD. [Seal.]

FAYETTE COUNTY, *sct.*

This day, Sarah Beard came personally before us, two of the justices assigned to keep the peace for the county aforesaid, and acknowledged the within to be her act and deed.

Given under our hands and seals, this 7th day of July, 1806.

THOMAS JANUARY. [Seal]
CHS. HUMPHREYS. [Seal.]

FAYETTE COUNTY, *sct.*

I hereby certify that Thomas January and Charles Humphreys, gent., who have subscribed the foregoing certificate, are justices of peace in said county, duly and legally appointed and qualified. I further certify that the

with deed is admitted to record in the office of said county, in book No. 2, page 284, and examined.

LEVI TODD, *C.*

JEFFERSON COUNTY, *sct.* *November* 7, 1806.

This day the within deed was produced to me as clerk of the county court of said county, and, being certified as the law directs, was recorded in my office.

WORDEN POPE.

A copy. Teste: WORDEN POPE, *C.*
WORDEN POPE, *Clerk.*

No. 6.

Fortunatus Cosby to Henry Clay.—Deed.

This indenture, made this 29th day of October, 1807, between Fortunatus Cosby, of Louisville, in the State of Kentucky, of the one part, and Henry Clay, of Lexington, in the same State, of the other part:

Whereas Sarah Beard, by a deed bearing date the 7th day of July, 1806, recorded in the county court of Fayette, and afterwards on the 7th day of November, 1806, recorded in the office of the county court of Jefferson, conveyed to the said Fortunatus Cosby a certain tract or parcel of land lying in the said county of Jefferson, adjoining the town of Louisville, and containing, by estimation, three thousand acres of land, be the same more or less, which said land was patented to John Connolly and Chs. D. Warnsdorff; and, also, certain lots, islands, ferry, rents, issues and appurtenances thereunto belonging, as will by reference to the said deed more fully and at large appear; and whereas the said Cosby has heretofore sold to the said Clay one equal undivided third part of all the property, with its appurtenances, described and conveyed by the said deed from Sarah Beard to him, except as is hereinafter excepted: Now, this indenture witnesseth, that the said Fortunatus Cosby, for and in consideration of the sum of one dollar to him in hand paid by the said Clay, the receipt whereof he doth hereby acknowledge, hath granted, bargained, sold and delivered, and by these presents doth grant, bargain, sell and deliver unto the said Henry Clay, one equal undivided third part of all the land and property, of whatever description, contained and described in the said deed of conveyance from Sarah Beard to him, except twenty-four acres of land adjoining the town of Shippingport, deeded to James Berthoud; also, one half-acre lot in the town of Louisville, number seven, and the two squares in said town adjoining the half-acre lots Nos. 5, 6, 7, 8, 9, 10, 11, and 12, extending to Beargrass and the river, with all and singular the appurtenances to the said third part in any manner belonging, together with the remainder and remainders, reversion and reversions, rents, issues and profits, to the said third part in any manner appertaining; and all the right, title, and interest therein derived to the said Cosby from the said Sarah Beard—to have and to hold the said equal undivided third part of the aforedescribed property, with its appurtenances, to the said Henry Clay, his heirs and assigns, forever, to his and their only proper use and behoof; and the said Cosby, for himself and his heirs, doth covenant and agree to and with the said Clay, that he and they shall at any time hereafter, at his request, make such further and other conveyance, better to vest the said Clay with

the said third part of the said property as counsel may advise; and the said Cosby, for himself and his heirs, doth further covenant and agree to and with the said Clay that he will warrant and defend the right and title to the said equal undivided third of the said property, against the claim of all and every person whatsoever, claiming by, through, or under him, but against no other person whatsoever;—it being clearly and expressly understood by the parties that the said Clay is to be vested with the title, such as it is, derived from Sarah Beard, and that the said Cosby is in no manner to be responsible for the goodness thereof.

In testimony whereof, the said Fortunatus Cosby hath hereunto set his hand, and affixed his seal, the day and year first mentioned.

FORTS. COSBY. [Seal.]

JEFFERSON COUNTY, *sct.* *Oct.* 31, 1807.

This day, the within named Fortunatus Cosby, came in his proper person, before me. Worden Pope, clerk of the county court of said county, and acknowledged and delivered the within indenture of bargain and sale to Henry Clay as and for his act and deed, whereupon I have recorded the same in my office.

WORDEN POPE.

A copy. Teste: WORDEN POPE, *C.*
WORDEN POPE, *Clerk.*

No. 7.

Cosby and Wife, to Lytle.—Deed.

This indenture, made this seventeenth day of May, one thousand eight hundred and eleven, between Fortunatus Cosby, and Mary Ann his wife, of the town of Louisville, in the county of Jefferson, and State of Kentucky, of the one part, and William Lytle, of the same place, at present of the other part. Whereas Sarah Beard, by her indenture of bargain and sale, bearing date the 7th day of July, 1806, granted, bargained, aliened and confirmed unto the said Cosby, his heirs and assigns forever, a certain tract or parcel of land, lying and being in the said county of Jefferson, on the Ohio river, adjoining the said town of Louisville, containing, by estimation, three thousand acres, be the same more or less, one thousand of which being the one half of two thousand acres patented by the King of Great Britain to John Connolly, by patent bearing date the 10th day of September, one thousand seven hundred and seventy three, the other two thousand acres patented to Charles D. Warnsdorff at the same date, and bounded and described in and by said patents, reference thereto being had will more fully and at large apppear; also, all the unsold lots in the said town of Louisville, consisting of twenty-acre lots, ten-acre lots, five-acre lots, and half acre lots, and other lots and parcels of ground deeded to Colo. John Campbell; also, all the islands in the said river Ohio, near the said town of Louisville, lately the property of Allen Campbell, deceased; also, the grounds and ferry at the lower landing in Shippingport, which said tract of land, lots, parcels of ground, islands and ferry, the said Sarah Beard held title to as the heir and representative of Allen Campbell, deceased, and Robert Campbell, deceased, together with all and singular the premises and appurtenances thereunto belonging, or in anywise appertaining, as by the said deed recorded in the clerk's office of the county court of Jefferson county

aforesaid, in deed, book E., at page 48, relation thereto being had, will appear. And whereas the said Fortunatus, and Mary his wife, by their certain indenture of bargain and sale, bearing date the 29th day of October, one thousand eight hundred and seven, did grant, bargain, sell, and deliver unto Henry Clay, his heirs, and assigns forever, one equal undivded third part of all the land and property of whatever description, contained and described in the said deed of bargain and sale from the said Sarah Beard to the said Fortunatus Cosby, except twenty-four acres of land adjoining the said town of Shippingport, conveyed by the said Cosby to James Berthoud; and, also, an half-acre lot in the said town of Louisville, number seven, and the two squares in said town adjoining the half-acre lots Nos. 5, 6, 7, 8, 9, 10, 11, and 12, extending to Beargrass and the Ohio river; and the said indenture recorded as aforesaid, relation thereto being had, will more fully appear. And whereas, also, the said Lytle has purchased of the said Clay all his undivided third part of the said lands, lots, and parcels of ground, islands and ferry, mentioned in the said deed from the said Sarah Beard to the said Cosby, and not in and by the said deed from said Cosby to the said Clay, therein and thereby excepted to and for the said Cosby; and the said Lytle has now purchased of the said Cosby all the said Cosby's undivided two third parts of all the lands, lots, and parcels of ground, islands in the Ohio river, and land and ferry at the lower landing in Shippingport, conveyed to him by the said Sarah Beard as aforesaid, except the said twenty four acres adjoining Shippingport, conveyed to James Berthoud; the half acre lot No. 7, and the square No. 3 and 4, between the half-acre lots Nos. 5, 6, 7, 8, 9, 10, 11, and 12, reserved in the deed aforesaid from the said Cosby to the said Clay, and excepting and reserving, also, to the said Cosby twenty-eight and one quarter acres conveyed by him to John A. Tarascon, and five acres sold and conveyed by said Cosby to Abel Channonhouse, near to Shippingport; also, the five-acre lots Nos. 11, 12, and 13; also, the twenty-acre lot No. 8, and also ten acres sold by the said Cosby to Aaron Fontain, part of the partition lot No. 4, all in the town of Louisville, and which ten last mentioned lots are to be laid off as follows: beginning at the edge of the pond on the southwardly side in the eastern line of said partititonal lot No. 4; thence with the same, and binding on the half-acre lots, to the northwardly side of Jefferson, on Third street; thence, westwardly, the course of the northwardly side of said street, and down the pond, until the quantity shall be obtained, with the privilege to the said Fontain, his heirs, and assigns forever, of ingress and egress by the said Jefferson, on Third street, to and from the said ten acres of land; but the said Fontain, his heirs or assigns are at liberty to take a part of the said pond in making up the said ten acres of land. Now, therefore, this indenture witnesseth, that the said Fortunatus Cosby and Mary Ann his wife, for and in consideration of the sum of forty-five thousand dollars current money of the United States to them in hand paid before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, have granted, bargained, sold, conveyed, delivered and confirmed, and by these presents do grant, bargain, sell, convey, and unto the said William Lytle, and his heirs and assigns, (except as herein and hereby before excepted) forever, all the right, title, interest, trust, property, claim and demand of the said Cosby, of, in and over two equal undivided third parts of the lands, lots, parcels of ground, islands, ferry, and other

property, which passed to, and vested in him the said Fortunatus Cosby under and by virtue of the aforesaid deed of bargain and sale, from the said Sarah Beard, and also all the rents issues and profits of the same, and all ferries now established, and improvements made thereon and appendant—to have and to hold the aforesaid undivided two-thirds of the lands, lots, parcels of ground, islands, ferries, and other property whatever conveyed as aforesaid by the said Sarah Beard to the said F. Cosby, hereby bargained and sold, with all the appurtenances, unto the said William Lytle, his heirs and assigns, to his and their only proper use and behoof forever; and the said F. Cosby, and Mary Ann his wife, do covenant and agree to and with the said William Lytle, his heirs and assigns, that they, the said Fortunatus and Ann his wife, will, and their heirs, executors, and administrators, shall warrant and forever defend the land and premises hereby bargained and sold, with all the appurtenances (except the land of Shippingport, sold by Allen Campbell to James Berthoud) not conveyed unto the said William Lytle, his heirs, and assigns, against all and avery person or persons whatsoever lawfully claiming, or to claim the same; and the said Fortunatus Cosby, and Ann his wife, do covenant and agree to and with the said William Lytle, and with his heirs and assigns, that the premises hereby bargained and sold now are, and forever hereafter shall be, and remain free and clear of and from all former and other deeds of conveyance, judgments, executions, titles, mortgages, and other incumbrances whatever.

In witness whereof, the said Fortunatus Cosby, and Mary Ann his wife, hereunto set their hands and seals, on the day and year first written.

FORTS. COSBY. [Seal.]
M. A. COSBY. [Seal.]

Signed, sealed, and delivered, in presence of—
JOHN ROWAN.
WORDEN POPE, *Clerk.*

I am to comply with the contract made by myself and Fortunatus Cosby with Paul Skidmore, for a part of the lands mentioned in the foregoing conveyance, and am to have the sole emolument and advantages thereof.

Witness my hand seal, this 17th day of May, 1811.

WILLIAM LYTLE. [Seal.]

Teste: WORDEN POPE, *Clerk.*

This day the within named Fortunatus Cosby, and Mary Ann his wife, came in their proper persons before me as clerk of the county court of said county, and acknowledged and delivered the within indenture of bargain and sale to William Lytle as and for their act and deed, and the said Mary; being examined by me as the law directs, relinquished her right of dower, in and to the land within mentioned, and on the same day the said William Lytle acknowledged the agreement annexed to the said deed; whereupon I have recorded the same in my office.

WORDEN POPE.

A copy. Teste: WORDEN POPE, *Clk.*

No 8.

Clay and Wife to Lytle.—Deed.

This indenture, made this day of October, in the year of our Lord one thousand eight hundred and thirteen, between Henry Clay, and Lucretia his

wife, of the town of Lexington, county of Fayette, and State of Kentucky, of the one part, and William Lytle, of Cincinnati, in the State of Ohio, of the other part, witnesseth: that the said Henry Clay, and Lucretia his wife, for and in consideration of an exchange of property heretofore made between the Henry Clay and the said William Lytle, by which the said Lytle was to convey to said Clay certain houses and lots in Lexington, in exchange for land lying near Louisville, and which said Lytle has since conveyed to the said Clay by a deed with general warranty duly recorded, and for the further consideration of one dollar, current money of Kentucky, to the said Clay and wife in hand paid at the ensealing and delivering of these presents, have granted, bargained, sold, aliened and conveyed, and by these presents do grant, bargain, sell, alien, and convey, unto the said William Lytle, his heirs and assigns forever, all those several parcels of land lying and being in the county of Jefferson, and State of Kentucky, adjoining the town of Louisville, which was conveyed to the said Clay by deed bearing date on the 19th day of October, 1807, by Fortunatus Cosby, to whom it was conveyed by Sarah Beard by deed bearing date the 7th day of July, 1816, both of which deeds are duly recorded in the clerk's office of the Jefferson county court, it being clearly agreed and understood that the said Clay and wife convey all their interest in said lands, being one-third part of the said lands as expressed in the deed from the said Cosby to the said Clay, (subject to the exceptions therein specified) to said Wm. Lytle; and it being also agreed and understood that the said Clay and wife convey only their right and title, such as it is, received from the said Cosby and Beard, to the said Clay's interest in what is generally termed the lower thousand acre tract or survey, patented in the name of John Connolly and Chas. Warnsdorff, upon which there is supposed to be incumbrances, and that the said Clay's interest in said one thousand acres aforesaid be lost, the said Clay or his heirs are, in no event, to be liable therefor, or responsible in any manner to the said Lytle for such loss, together with all and singular the premises, together with the appurtenances thereunto belonging, or in anywise appertaining, and all and singular the rents, issues, and profits thereof—to have and to hold the saidland and premises, with the appurtenances, to the said William Lytle, his heirs and assigns, forever. And the said Henry Clay, and Lucretia his wife, for themselves, their heirs, executors, and administrators, do hereby bind, promise, and oblige themselves, their heirs, executors, administrators, &c. to warrant and forever defend the said third part of said lands aforesaid, (except his interest in said lower one thousand acre tract or survey, being one undivided third part) to the said William Lytle, his heirs, and assigns forever, free of, and clear from the claim or claims of him the said Henry Clay, and Lucretia his wife, and their heirs, and from the claim or claims of all and every person or persons whatever, claiming or to claim the same.

In witness whereof, the said Henry Clay, and Lucretia his wife, have hereunto set their hands and seals the day and year above written.

H. CLAY. [Seal.]
LUCRETIA CLAY. [Seal.]

Memo.—Mrs. Clay is to relinquish her dower as soon as Mrs. Lytle relinquishes her dower in the Lexington property.

H. CLAY.

FAYETTE COUNTY, *to wit:*

Clerk's Office, Oct. 12th, 1813.

As clerk of the court for the county aforesaid, I certify that this deed was this day acknowledged before me by Henry Clay to be his act and deed, a true copy of which is recorded in my office.

Attest: JNO. D. YOUNG, *Clerk.*

JEFFERSON COUNTY, *to wit:*

November 19th, 1813.

This day the within indenture of bargain and sale was received by me in my office as clerk of the county court of said county, and, being authenticated, I have recorded the same in my office.

WORDEN POPE,

A copy. Teste: WORDEN POPE, *Clerk.*

No. 9.

R. Bywaters, &c. to Wm. Lytle.—Deed.

This indenture, made and entered into this eleventh day of September, eighteen hundred and seventeen, by and between Robert Bywaters, and Nancy C. his wife, late Nancy C. Beard, and Hankerson Bywaters, and Sarah wife, late Sarah Beard, of the town of Cincinnati, and State of Ohio, of the one part, and William Lytle, of said town and State, of the other part, witnesseth: that the said Robert, and Nancy C. his wife, and the said Hankerson, and Sarah his wife, for and in consideration of the sum of twenty-five thousand dollars secured to be paid to them by the said Lytle, the receipt whereof they hereby acknowledge, have granted, bargained and sold, and by these presents do grant, bargain, sell, alien, and convey to the said William Lytle, all their right, title, interest and claim in and to a certain tract or parcel of land containing three thousand acres, be the same more or less, (except one hundred and twenty-seven acres thereof sold by Allen Campbell in his life time, on which the town of Shippingport now stands, situate, lying, and being in the county of Jefferson, and State of Kentucky, near to and adjoining the town of Louisville, on the Ohio river, it being the same which was conveyed to the said Wm Lytle by Fortunatus Cosby, by deed bearing date the 17th day of May, 1811, and by Henry Clay, by deed bearing date the day of October, 1813, both of which deeds are truly recorded in the office of the clerk of the county court of said county of Jefferson, and in which deeds the boundary of said land hereby conveyed is more particularly described, and will more at large appear by reference thereto, together with all the other land and lots in the said deed contained, excepted the said one hundred and twenty seven acres of land before excepted, which said land and lots the said parties of the first part claim by and through the said Nancy C. Bywaters, late Nancy C. Beard, and the said Sarah Bywaters, late Sarah Beard, as the heirs and representatives *of* of John Campbell, deceased—to have and to hold the said land and lots hereby conveyed, together with all and singular the appurtenances, thereunto belonging, or in anywise appertaining to the said Wm. Lytle and his heirs and assigns forever, free from the claim of the said Robert and Nancy C. his wife, and the said Hankerson, and Sarah his wife, and their heirs, and all and every person or persons claiming by, through, or under them, or either of them.

In witnes whereof, the said parties of the first part have, *have* hereunto set their hands, and affixed their seals, the day and year first above written.

ROBERT BYWATERS. [Seal.]
NANCY C. BYWATERS. [Seal.]
H. R. BYWATERS. [Seal.]
SARAH BYWATERS [Seal.]

Teste: FORTS. COSBY, as to
R. BYWATERS.
ISAAC H. TYLER.

STATE OF OHIO, HAMILTON COUNTY, *sct:*

This day the above named Robert Bywaters, and Nancy his wife, and the said Hankerson Bywaters, and Sarah his wife, the persons who signed and sealed foregoing indenture, before us, two of the justices of the peace in and for said county, and acknowledged the said indenture to be their act and deed; and the said Nancy C. Bywaters, and Sarah Bywaters were privily examined by us, separate and apart from their said husbands, and declared that they freely and voluntarily signed, sealed, and acknowledged said indenture.

Given under our hands, this 11th day of September, 1817.

ETHAN STONE. [Seal.]
JNO. MAHARD. [Seal.]

STATE OF OHIO, HAMILTON COUNTY, *sct.:*

I, John S. Gano, clerk of the court of common pleas within and for the county of Hamilton aforesaid, do hereby certify that John Mahard, esq., before whom the within and foregoing acknowledgments appear to have been made, is, and was at the time thereof, one of the justices *aforesaid*, to keep the peace within and for the county of Hamilton aforesaid, duly elected, commissioned, and sworn into office, and that full faith and credit are due and ought to be given to all his official acts as such, as well in courts of record as thereout.

In testimony whereof, I have hereunto set my hand, and affixed the seal of our said court of common pleas, this 11th day of September, 1817.

JNO. GANO, *Clerk H. C.*

I, the clerk of the county court of Jefferson county, in the State of Kentucky, do certify that on this day the foregoing deed was presented to me in my office, and that I have recorded the same, and the certificates thereon, endorsed in my office.

Witness my hand, this 11th day of October, 1817.

WORDEN POPE.

THE STATE OF OHIO, HAMILTON COUNTY, *Corp. of Cincinnati, ss.*

Personally came before me, Wm. Carey, mayor of the town of Cincinnati, on the 20th day of October, 1817, H. R. Bywaters, the within named grantor, who acknowledged and delivered the foregoing indenture as his act and deed, from the said Hankerson R. and Sarah his wife, to Wm.

Lytle, as and for the act and deed of them, the said Hankerson B. and Sarah.

In testimony whereof, I have hereunto set my hand, and affixed the seal of the said corporation, the day and year above written.

WM CAREY, *Mayor.*

I, the clerk of the county court of Jefferson county, in the State of Kentucky, do certify that, on this day, the within named Robert Bywaters personally appeared before me, in my office, and acknowledged and delivered the within indenture and deed of bargain and sale as and for his act and deed, and that I have recorded the same, with the several certificates thereon endorsed

Witness my hand, this 13th day of October, 1817.

WORDEN POPE.

The Commonwealth of Kentucky to any two Justices of the Peace in the county of Hamilton, in the State of Ohio, esquires, greeting:

Whereas Robert Bywaters, and Nancy C. his wife, late Nancy C. Beard, and Hankerson Bywaters, and Sarah his wife, late Sarah Beard, of the town of Cincinnati, and State of Ohio, did, by their indenture and deed of bargain and sale, sealed and delivered, bearing date the 11th day of Sept., 1817, and hereto annexed, grant, bargain, and sell unto William Lytle all their right, title, interest, and claim in and to a certain tract or parcel of land containing three thousand acres, be the same more or less, except one hundred and twenty-seven acres thereof sold by Alien Campbell, in his life time, on which the town of Shippingport now stands, situate, lying, and being in the county of Jefferson, and State of Kentucky, near to and adjoining the town of Louisville, on the Ohio river, it being the same which was conveyed to the said Wm. Lytle by Fortunatus Cosby, by deed bearing date the 17th day of May, 1811, and by Henry Clay, by deed bearing date the day of October, 1813, which deeds are duly recorded in the office of the county court of Jefferson, together with all the land and lots in said deeds contained, except the said one hundred and twenty-seven acres of land before excepted: and whereas the said Nancy and Sarah cannot conveniently travel to the county court of our said county, or the clerk's office thereof in the said State of Kentucky, to make their acknowledgments of the said indenture and deed:

Therefore, we command you, that you do personally go to the said Nancy and Sarah, and receive their acknowledgments of the said deed, and examine them privily and apart from their said husbands, whether they do the same freely and voluntarily, and without the threats and persuasions, or coercion of their said husbands, and whether they are willing the said deed, together with this commission, shall be recorded in our said county court, or the clerk's office thereof; and when you have received the acknowledgments as aforesaid, that you distinctly and plainly certify us thereof in our said court or office, sending said deed and this commission. Witness, Worden Pope, clerk of our said court, at the court-house in Louisville the 11th day of October, 1817, and in the 26th year of the Commonwealth.

WORDEN POPE.

In obedience to the within and foregoing commission, we, the subscribers, justices of the peace in and for the county of Hamilton, in the State of Ohio, do certify that we personally went to the within named Nancy C.

Bywaters, wife of Robert Bywaters, and Sarah Bywaters, wife of Hankerson Bywaters, and severally examined them privily and apart from their said husbands, and having shown and explained to them the within mentioned and annexed deed, they severally acknowledged and delivered the same as and for their act and deed, that they severally declared that they had signed, sealed, and delivered the said deed of their own free will and consent; that they had freely and willingly acknowledged the same, and without the persuasions, threats, or compulsion of their said husbands, and without the fear of incurring their displeasure; that they were willing that the said deed should be recorded in the office of the clerk of the county court of Jefferson county, in the State of Kentucky, and that they, or either of them, did not wish to retract their said acknowledgments.

Given under our hands and seals, this 20th day of October, 1817.

JNO. MAHARD. [Seal.]
ETHAN STONE. [Seal.]

THE STATE OF OHIO, HAMILTON COUNTY, *set.*

I, John S. Gano, clerk of the court of common pleas in and for said county, do hereby certify that John Mahard and Ethan Stone, esquires, before whom the foregoing acknowledgments were taken, and whose certificates thereof is given, are, and were at time, acting justices of the peace, duly elected, commissioned, and sworn into office; in and for said county, and that full faith and credit are due, and ought to be given to all their official acts as such.

In testimony whereof, I have hereunto set my hand, affixed the seal of our said court of common pleas at Cincinnati, this 20th day of October, A. D. 1817.

JNO. S. GANO, *Clerk.*

I, the clerk of the county court, of Jefferson county, in the State of Kentucky, do certify that on this day the foregoing commission, with the certificates thereon endorsed, was produced to me in my office; whereupon I have, at the request of the said Wm. Lytle, recorded the same, with said certificates endorsed in my said office.

Witness my hand, this 30th day of October, 1817.

WORDEN POPE.

A copy. Teste: WORDEN POPE, *C.*

No. 11.

Wm. Lytle to Jno. Rowan.—Deed.

This indenture, made this 17th day of February, in the year of our Lord one thousand eight hundred and twenty-two, between William Lytle, of the city of Cincinnati, of the county of Hamilton, and State of Ohio, of the one dart, and John Rowan, of the town of Louisville, of the county of Jefferson, and State of Kentucky, of the other part—witnesseth:

That the said William Lytle, for divers good causes and considerations, and the sum of one dollar current money to him in hand paid, the receipt whereof is hereby acknowledged, and thereof and therefrom doth acquit, release, exonerate, and forever discharge the said John Rowan, his heirs, executors and admor's. hath granted, bargained, sold, released, remised, and forever claim quitted, and by these presents doth *doth* grant, bargain, sell, re-

lease, remise, and forever quit claim unto the said John Rowan, his heirs and assigns forever, all the lands, river banks, islands and beds and ledges of rocks, sand-bars, houses, and other tenements situate, lying, and being in the said county of Jefferson, and State of Kentucky aforesaid, or within the limits of the river Ohio, as it flows on the northerly side of said county of Jefferson; and more especially all the lands, privileges, and appurtenances thereunto belonging and appertaining, conveyed to Wm. Lytle, aforesaid by Fortunatus Cosby and wife, by deed bearing date the 17th day of May, A. D. 1811, and by deed from Henry Clay and wife, dated October, A. D. 1813, reference to said deeds being had as they are recorded in the clerk's or recorder's office of said county of Jefferson, for a more full description of said lands, will more fully and at large appear, and all the estate, right, title, claim, interest, and demand of the said Wm. Lytle, either in law or equity, of, in and to the said premises hereby granted, and every part thereof, together with all and singular the rights, privileges, and appurtenances to the said premises belonging, or in anywise appertaining, and the rents, issues, and profits thereof—to have and to hold the said premises hereby bargained and sold, or meant or intended so to be, with the appurtenances unto the said John Rowan, to the only proper use, benefit, and behoof of the said John Rowan, his heirs and assigns, forever.

In witness whereof, the said Wm. Lytle, together with his wife, who hereby relinquishes her right of dower in the premises, hath hereunto set his hand and seal the day and year first above written.

WM. LYTLE. [Seal.]

Signed, sealed, and delivered, in presence of—
THOS. SHARPLESS.
TIMOTHY KERBY.

THE STATE OF OHIO, CITY OF CINCINNATI, *sct.*:

Before the subscriber, mayor of the city of Cincinnati aforesaid, personally came Wm. Lytle, the grantor in the within deed named, and acknowledged the same to be his voluntary act and deed for the uses and purposes therein mentioned. In testimony whereof, I have hereunto subscribed my name, and the seal of said city, this 18th day of February, in the year 1822.

ISAAC G. BURNETT, *Mayor.*

I, Worden Pope, clerk of the county court of Jefferson county, in the State of Kentucky, do certify that, on this day, the within deed was produced to me in my office, and the execution thereof being duly certified, I have recorded the same in office.

Witness my hand, this 21st day of February, 1822.

WORDEN POPE.

A copy. Teste: WORDEN POPE, *Clerk.*

No. 12.

Thos. Bodley's Deposition.

The deposition of Thomas Bodley, aged about 60 years, taken by consent, to be read as evidence in an action of ejectment, or writ of right—Henry Beard and others, against the city of Louisville and others depending in the United States' court for the 7th circuit, Kentucky district. This de-

ponent being duly sworn, deposeth and saith, upon being interrogated by the defendants. He states that sometime in the year 1803 or 1804, as well as he now recollects, when Col. Richard Taylor was attending to some of the business of Col. John Campbell's estate, in Fayette county, the said Taylor being the acting executor of Col. John Campbell, he heard said Taylor observe that he was very anxious to have the business of said estate settled, as he was getting old, and it was very inconvenient for him to be travelling about to attend to it; that he had settled or got clear of the business in Jefferson county, and had delivered up the property there to Allen Campbell, the devisee, and if he could get some suits in Fayette settled, he would be able to close the whole business of the estate. This deponent has a perfect recollection of the facts above stated, and knows nothing more on the subject, only from report? He is asked if he knows any thing of Mrs. Beard going to Louisville after the death of Allen Campbell and Robert Campbell, and taking possession of their estates. He says he knows nothing on this subject of his own knowledge: he has heard it by report, and has seen an answer of Mrs. Beard's heirs, filed in the Fayette circuit court at the suit of Flemings, in which they state that Mrs. Beard, after the death of Allen and Robert Campbell, claimed their estates, but, as to the nature and extent of the claim, he has no knowledge.

THOS. BODLEY.

November term, 1831. Sworn to in open court.

Attest: JNO. H. HANNA, *C. C. C. K. D.*

No. 13.

James Hunter's Deposition.

Being called on as a witness for the defendants, in a suit depending in the Federal court, Beard and others against Rowan and others, do state that, in the month of January or February, 1800, as well as I recollect, that Allen Campbell stopped at my house in Shelbyville, on his way to Louisville, from Lexington, to take possession of his lands and estate which had been devised to him by Col. John Campbell, (at and adjoining Louisville) as I then understood and believed; that I kept a tavern at that time in Shelbyville, and in the year 1801, I removed to Louisville, and there opened a tavern in November: in January the 3d, 1802, Allen Campbell came to board with me a short time, and then went to the place called White Home, on the lower 1,000 acres of Connolly, adjoining Louisville, where he died, which was on the 16th of September, 1804; that Col. John Campbell lived there some time before his death, then removed to Fayette county, in the neighborhood of Lexington, where he died; that the said John Campbell objected to citizens of the town of Louisville taking rock from the stone quarry after his death; and when Allen Campbell was the owner, and in possession of the estate aforesaid, he agreed and permitted the citizens to take rock from the quarry, and also sold and gave timber from the lands. I know well that, in 1802 or '3, said Allen Campbell permitted William Read to get a set of logs for a blacksmith's shop, which Read did get from said lands; that said Allen continued in the possession of the estate, and claimed the whole of the lands devised to him by his brother John Campbell, as I do believe, from the time he took possession thereof as aforesaid, and used the same as his own, until his death.

and sold sundry parcels and parts of the lots in Louisville, and parts of the land devised to him as aforesaid; also, that, after the death of Allen Campbell, his half brother and sister, to wit, Robert Campbell and Sarah Beard, soon after entered upon and took possession of the residue of said lands and estate, and claimed them as their own, as I understood and believed, and so remained in possession thereof, and used the same until the death of said Robert Campbell; and then said Sarah Beard continued in possession of said lots and lands, claiming them as her own, as I understood, until she sold the same to Fortunatus Cosby. The possession of the lands and the estate was given to Allen Campbell by Col. Richard Taylor, executor and trustee of John Campbell, as I frequently heard said Taylor say after Allen Campbell was in possession, and so it was understood by the citizens of Louisville and its vicinity, and I never heard any thing to the contrary.

JAS. HUNTER.

No. 14.

Deposition of Robert Breckenridge.

BEARD'S HEIRS, *vs.* ROWAN. } Upon a writ of right.

On the trial of this cause, Robert Breckenridge, a witness, stated that he became acquainted with John Campbell, of Kentucky, early in the year 1784; that he then resided at or near Louisville, on the land originally surveyed in the names of John Connolly and Charles Warnsdorff, for 2,000 acres each, which was understood to be his property, save 1,000 acres appropriated to establishment of the town of Louisville; that after the death of the said John, his half brrother, Allen Campbell was put into the possession of the said estate by Col. Richard Taylor, the trustee and executor of the said John, on which the said Allen resided at the time of his death, which took place in the latter part of the year 1804, having been in the use and occupancy of the estate several years, during which time he sold and conveyed part of the land, and in other respects exercised acts of ownership; that, after the death of the said Allen, who it is said died intestate, the said estate fell into the possession of Robert Campbell and Sarah Beard, full brother and sister of the said John; that the said Robert Campbell took possession of the estate not previously sold or disposed of by the said Allen, which he claimed and held in right of himself and the said Sarah until his death; that, upon the death of the said Robert Campbell, the estate fell into the possession of the said Sarah, (with whom witness was unacquainted) [here witness was stopped or interrupted] otherwise he could have stated, in addition that, after the death of her brother Robert, the said Sarah conveyed the estate in controversy to Fortunatus Cosby, who was in the possession thereof, and exercised ownership over it. That afterwards, Genl. Lytle acquired title thereto through said Cosby and perhaps Henry Clay, as witness is informed and believes, and over which the said Lytle exercised the rights of ownership. That, afterwards, John Rowan acquired title to the land, either by purchase at a public sale of the land or a conveyance from Gen. Lytle, or perhaps both, and that the two claims, in the names of John Connolly and Warnsdorff, of 2,000 acres each, lie within five miles of the mouth of Beargrass, in the city of Louisville.

ROB. BRECKENRIDGE.

E.

Demandants' Instructions.

To instruct the jury—that, unless they find from the evidence of the surviving trustees of Col. Campbell's will conveyed by deed the land in contest to Allen Campbell, that the law is for the demandants.

That, unless they find from the evidence that Allen Campbell was naturalized according to the laws of the United States, that the law is with the demandants.

That from the facts agreed, and the evidence offered, the law is for the demandants, and they ought to find accordingly.

No. 15.

Tenants' Instructions.

ROWAN, *ats.* BEARD, &c. } Upon a writ of right.

The said Rowan, by his attorneys, moved the court to instruct the jury, 1st. That the premises in question passed in fee to Allen Campbell, the half-brother of John Campbell, under his will, and at the death of said Allen passed, by descent, from him to Robert Campbell and Sarah Beard, and then from him to her; provided the jury believed from the evidence, 1st. That said John Campbell was a citizen of the United States, and died in October, 1789, and had never been married. 2d. That said Allen Campbell came to the State of Kentucky in December, 1799, and continued to reside therein until Sept., 1804, and then died intestate, and had never been married. 3d. That said Robert Campbell was a citizen of the United States, and half brother of the said Allen; that said Sarah Beard was half-sister of said Allen, and came to Kentucky in October, 1800, and continued to reside therein until the death of said Allen; that said Robert Campbell died in August, 1805, intestate, and had never been married; and that said Sarah Beard was the sister of the said Robert Campbell.

UNITED STATES OF AMERICA, *Seventh Circuit, Kentucky District, sct.:*

I, John H, Hanna, clerk of the seventh circuit court of the United States of America in and for the Kentucky district, do hereby certify that the foregoing pages contain a full, true, and complete transcript of the record and proceedings in the suit aforesaid.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of said court, this fourth day of November, A. D. 1833.

[L. S.] JNO. H. HANNA.